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Application No. 09/963,340
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DOUBLE PATENTING REJECTION

The April 8, 2004 Office Action states on page 13 that claims 1-13, 16-26, 31, 43-46 and 57 are rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-32 of U.S. Patent No. 6,586,661. The Office Action goes on to state that although the conflicting claims are not identical, they are not patentably distinct from each other because they are both directed to an isolated DNA comprising the DNA sequence of SEQ ID NO:1 which encodes a quinolate phosphoribosyl transferase enzyme, a DNA construct thereof, transgenic plants and seeds transformed therewith, methods of transforming plants and plant cells with SEQ ID NO:1 and of reducing expression of quinolate phosphoribosyl transferase expression in a plant cell or plant transformed with SEQ ID NO:1 in sense or antisense orientation, and a method of reducing nicotine levels in tobacco transformed with an antisense construct comprising SEQ ID NO:1.

Claims 4-11, 20-25 and 46 are canceled in the October 8, 2004 Amendment in response to the April 8, 2004 Office Action and thus, any aspect of this rejection is rendered moot as it pertains to these claims. Furthermore, claims 1, 2, 3, 12, 16, 17, 18, 19, 26, 31, 43, 44, 45 and 57 are amended in the October 8, 2004 Amendment and Applicants would like to have the relevance of this rejection considered in view of the amended claims. Applicants will address this matter as appropriate by the submission of a Terminal Disclaimer when it is determined that the subject matter claimed in the present application is allowable and that a double patenting rejection is still applicable to such allowed claims. Accordingly, Applicants believe the issues raised in this rejection have been addressed and it is respectfully requested that this rejection be withdrawn.